REMARKS

This communication is responsive to the Official Action mailed on July 8, 2003. A petition for a one-month extension of the term for response to the Official Action, to and including November 10, 2003, is transmitted concurrently herewith.

Claims 1, 4-7, and 10-15 are currently pending in the application. Of the pending claims, claims 1, 7 and 13 are independent claims. Claims 4-6, 10-12 and 14-15 all directly or indirectly depend from one of independent claims 1, 7 or 13.

Claim 1 has been amended to now recite "wherein said optimal buffer size is described in a program which is executed when the main power of said broadcast receiver is switched on." This amendment to claim 1 does not constitute the addition of new matter as the newly recited subject matter was previously recited in claims 2 and 3, which have been cancelled. In addition, the subject matter is described, for example, at paragraph 0014 of the written description.

Claim 7 has also been amended. In particular, claim 7 now recites "a program that is executed when the main power of the broadcast receiver is switched on," which is subject matter that was previously recited in claims 8 and 9. Claims 8 and 9 have been cancelled by the present amendment. Thus, this amendment to claim 7 does not constitute the addition of new matter for at least this reason.

The preamble of claim 13 has been amended to now recite that the program "being executed when the main power of the broadcast receiver is turned on." This newly added subject matter was previously recited in claim 14 and is fully supported by the written description at, for example, paragraph 0014.

In the Official Action of July 8, 2003, claims 1-15 were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,892,508 to Howe (hereinafter "Howe") in view of

U.S. Patent Nos. 5,978,855 to Metz (hereinafter "Metz") and 5,684,791 to Raychauduri (hereinafter "Raychauduri").

In particular, with regard to claims 1, 6, 7, 12, 13 and 15, the Examiner asserts that while "Howe does not disclose determining an optimal buffer size that depends on a streams [sic] bitrate, . . . Metz inherently includes a buffer, as a buffer is required to store the ATM cells prior to reassembling the cells into MPEG-2 streams [and] Raychauduri discloses a data link control layer in which buffer size is determined by the bit rate for the transmitted ATM stream."

With regard to claims 2 and 8, the Examiner asserts that Raychauduri's "DLC layer is inherently part of the program to be executed by the processor as the DLC layer is part of the header file for a packet and programming is required in order to recognize that layer."

With regard to claims 4, 5, 10 and 11, the Examiner asserts that it would have been obvious at the time of the invention to "modify Howe/Metz to utilize a non-volatile memory and the buffer sizing feature of Raychauduri, thus insuring that the buffer sizing feature would be enabled even after powering the receiver on/off."

With regard to claims 3 and 9, the Examiner makes the remarkable statement that "Howe/Metz/Raychauduri inherently executes the buffer sizing program when the power is turned on as Raychauduri detects the type of data being received and allocates the buffer sized [sic] based upon the bit rate, if Raychauduri did not check that function and received [sic] various streams of different rates, the buffer would over/underflow." With regard to claim 14, the Examiner makes the same statement, except that Howe and Metz are not cited as supporting this assertion.

Neither Howe, Metz or Raychauduri include any teaching remotely suggestive of executing a buffer sizing program when

power is turned on. To begin, as noted above, the Examiner admits that "Howe does not disclose determining an optimal buffer size," thus applicants are puzzled by the Examiner's later statement that Howe "inherently executes the buffer sizing program when the power is turned on." The fact, as admitted by the Examiner, is that Howe does not include any disclosure relating to any structure or method for determining "an optimal buffer size" as is recited in the pending claims. Thus, it is impossible for Howe to execute such a program at all, much less when power is turned on.

Metz is also devoid of any teaching or suggestion, inherent or otherwise, relating to executing a buffer sizing program when power is turned on. Indeed, the Examiner has not pointed to any support in Metz for this assertion.

Not only does Raychauduri not teach executing a buffer sizing program at power-up, Raychaduri expressly teaches completely opposite, to wit:

> "In the case of CBR DLC at the base station, **at call setup**, the S-MAC allocates slots on a periodic basis for CBR VCs depending on their bit rate requirements. The DLC for a CBR call then maintains a FIFO buffer, the size of which is determined by the bit-rate of the call and the time window for error recovery."

[Emphasis Added.](Raychauduri, col. 10, lns. 28-33.) As stated in the above quoted text, the size of the buffer is determined at the time of call set up and only after time slots have been allocated. This makes it abundantly clear that Raychauduri teaches completely opposite to executing a buffer sizing program when power is turned on as is recited in the pending claims. In fact, the above quoted text completely eviscerates the Examiner's argument that either Howe, Metz or Raychauduri somehow "inherently executes the buffer sizing program when the power is turned on" since the only reference that mentions

calculating a buffer size does not do so at power up at all. Indeed, it is only applicants' written description and claims that describe and recite this novel and non-obvious aspect of the claimed invention.

As such, applicants respectfully submit that each of the independent claims 1, 7 and 13 are not obviated by any combination of Howe, Metz and Raychauduri. In particular, independent claim 1, as amended, recites "wherein said optimal buffer size is described in a program which is executed when the main power of said broadcast receiver is switched on." Independent claim 7 now recites "determining an optimal buffer size in the memory in accordance with a bit rate of the received transport stream data and a program that is executed when the main power of the broadcast receiver is switched on." Independent claim 13 also recites "the program being executed when the main power of the broadcast receiver is turned on." All the other pending claims depend from either of claims 1, 7 and 13 and are not obviated by the cited references for the same reason.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance of all of the claims remaining in the application are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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